Supreme Court, U.S.
FILED
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No. 03-695

IN THE

Supreme Court of the United States

THE GOODYEAR TIRE & RUBBER COMPANY,
Petitioner,

v.

FREDERIC V. MALEK,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO
THE FOURTH CIRCUIT COURT OF APPEALS

BRIEF FOR RESPONDENT IN OPPOSITION

William W. Maywhort
Counsel of Record
HOLLAND & HART LLP
8390 E. Crescent Parkway
Suite 400
Greenwood Village, CO 80111
(303) 290-1600

Stephen G. Masciocchi, P.C.
Kristin R. Baker
HOLLAND & HART LLP
555 Seventeenth Street
Suite 3200
Denver, CO 80201-8749
(303) 295-8000

Attorneys for Respondent
Frederic V. Malek

QUESTION PRESENTED

1. Pursuant to Federal Rule of Civil Procedure 83(a) and the Federal Magistrates Act, Local Rule 72 of the Eastern District of Virginia District Court authorizes and specifically designates magistrate judges to perform all duties authorized by the Federal Magistrates Act. Is Local Rule 72 valid?

PARTIES TO THE PROCEEDINGS

Pursuant to Supreme Court Rule 29.6, Respondent Frederick V. Malek states that he is an individual, not a corporation. Therefore, Rule 29.6 is inapplicable.

TABLE OF CONTENTS

QUESTION PRESENTED i

PARTIES TO THE PROCEEDINGS ii

TABLE OF AUTHORITIES iv

OPINIONS BELOW 1

STATUTES AND RULES INVOLVED 1

STATEMENT OF THE CASE 2

ARGUMENT 4

I. THE FOURTH CIRCUIT'S RULING IS NOT IN CONFLICT WITH ITS OTHER DECISIONS OR DECISIONS FROM OTHER CIRCUITS. 4

A. Local Rule 72 Conferred Jurisdiction on the Magistrate Judge. 5

B. Goodyear's Position Invites Chaos and Confusion in Courts Across the Country. 6

C. The April 30 Order was Nondispositive, and Goodyear Failed to File Written Objections in the District Court. 9

II. GOODYEAR'S INSERTION OF ITS ARGUMENT ON THE MERITS OF THE APRIL 30 ORDER DOES NOT ALTER THE PROCEDURAL NATURE OF THIS CASE, CORRECTLY DECIDED BY THE FOURTH CIRCUIT. 11

CONCLUSION 13

APPENDIX A-1

TABLE OF AUTHORITIES

FEDERAL CASES

A-Mark Auction Galleries, Inc. v. Am. Numismatic Assoc., 233 F.3d 895 (5th Cir. 2000) 12

Am. Stock Exch. v. Mopex, Inc., 215 F.R.D. 87 (S.D.N.Y. 2002) 9

Bhan v. NME Hosps., Inc., 929 F.2d 1404 (9th Cir. 1991) 7

Boughton v. Cotter Corp., 10 F.3d 746 (10th Cir. 1993) 11, 12

Dixon v. Francis, 2001 U.S. App. LEXIS 2774 (4th Cir. 2001) 9

E.I. DuPont de Nemours & Co. v. United States, 15 F. Supp. 2d 859 (Ct. Int'l Trade 1998) 10

Gomez v. United States, 490 U.S. 858 (1989) 8

In re Charlotte Observer, 882 F.2d 850 (4th Cir. 1989) 7

Mathews v. Weber, 423 U.S. 261 (1976) 7

MDK, Inc. v. Mike's Train House, Inc., 27 F.3d 116 (4th Cir. 1994) 9, 11

NLRB v. Frazier, 966 F.2d 812 (3d Cir. 1992) 9

Reynaga v. Cammisa, 971 F.2d 414 (9th Cir. 1992) 8

Simmons v. City of Racine, 37 F.3d 325 (7th Cir. 1994) 12

Strawbridge v. Sugar Mountain Resort, Inc., 243 F. Supp. 2d 472 (W.D.N.C. 2003) 7

Thomas v. Arn, 474 U.S. 140 (1985) 10

Thomas E. Hoar, Inc. v. Sara Lee Corp., 900 F.2d 522 (2d Cir. 1990) 9

United States v. Auberg, 2001 WL 987802 (S.D. Ind. July 9, 2001) 6

Wells v. Shriners Hosp., 109 F.3d 198 (4th Cir. 1997) 10

Wingerter v. Chester Quarry Co., 185 F.3d 657 (7th Cir. 1998) 7

DOCKETED CASES

Malek, et. al. v. Goodyear Tire & Rubber Co., No. 02-B-1772 (D. Colo.) 2

CONSTITUTIONAL PROVISIONS, STATUTES & RULES

U.S. CONST. art. III 2

28 U.S.C. § 636 ..... 2, 4, 5, 6, 8, 10

28 U.S.C. § 1291 12

Fed. R. Civ. P. 72 ..... 2, 3, 4, 5, 7, 8, 9, 10, 11

Fed. R. Civ. P. 83(a) 1, 5, 6,

Eastern District of Virginia
Local Rule 72 ..... 2, 3, 4, 5, 6, 8, 10

Eastern District of Oklahoma
Local Rule 72.1 7

Northern District of Ohio
Local Rule 72.2 7

Eastern District of North Carolina
Local Rule 72.2 7

Northern District of Indiana
Local Rule 72.1 7

Middle District of Alabama
Local Rule 72.2 7

Southern District of California
Local Rule 72.2 7

Western District of Texas
Local Rule 72 7

Southern District of Illinois
Local Rule 72.1 7

OPINIONS BELOW

Respondent accepts Petitioner's statements regarding the opinions below. Respondent adds that after the Fourth Circuit dismissed the Petitioner's appeal by Order entered August 6, 2003 (Pet. App. 2a-3a), the Magistrate Judge granted Respondent's Motion to Lift the Stay by Order entered on November 21, 2003. (App. A-1).

STATUTES AND RULES INVOLVED

Federal Rule of Civil Procedure 83(a), states as follows:

> (1) Each district court, acting by a majority of its district judges, may, after giving appropriate public notice and an opportunity for comment, make and amend rules governing its practice. A local rule shall be consistent with—but not duplicative of—Acts of Congress and rules adopted under 28 U.S.C. §§ 2072 and 2075, and shall conform to any uniform numbering system prescribed by the Judicial Conference of the United States. A local rule takes effect on the date specified by the district court and remains in effect unless amended by the court or abrogated by the judicial council of the circuit. Copies of rules and amendments shall, upon their promulgation, be furnished to the judicial council and the Administrative Office of the United States Courts and be made available to the public.

Eastern District of Virginia Local Rule 72, states as follows:

> Magistrate Judges of this District serve as judicial officers of the Court and are authorized and specially designated to perform all duties authorized or allowed to be performed by United States magistrate judges by the United States Code and any rule governing proceedings in this Court.
>
> Duties and cases may be assigned or referred to a Magistrate Judge by an Order entered in the action or on the instructions of a District Judge.

Article III of the United States Constitution, Title 28 of the United States Code Section 636, and Federal Rule of Civil Procedure 72 are reproduced in Petitioner's Appendix.

STATEMENT OF THE CASE

This action is ancillary to the main litigation pending in the United States District Court for the District of Colorado entitled *Malek, et. al. v. Goodyear Tire & Rubber Co.*, No. 02-B-1772 (D. Colo.). In the main litigation, Malek is one of 40 plaintiffs (the "Malek Homeowners") seeking damages arising from the installation of Goodyear's defective Entran II hose in 26 different properties. In February of 2003, respondent Frederick V. Malek ("Malek") issued a subpoena in the United States District Court for the Eastern District of Virginia to petitioner The Goodyear Tire & Rubber Company ("Goodyear") seeking discovery of documents and other materials from Rowan & Blewitt, a public relations firm Goodyear hired in connection with the Colorado litigation. Goodyear filed this miscellaneous action in the Eastern District of Virginia and sought to quash the subpoena.

Pursuant to Local Rule 72, the matter was assigned to a magistrate judge. By Order dated April 30, 2003, the Magistrate Judge rejected Goodyear's claims that the subpoenaed documents and materials were privileged, and held that the Malek Homeowners were entitled to obtain the subpoenaed documents and to take a deposition from a Rowan & Blewitt representative (the "April 30 Order"). (Pet. App. 6a-7a).

Subsequently, Goodyear failed to comply with Federal Rule of Civil Procedure 72(a), which requires that objections to a magistrate judge's order be filed in the district court ("Federal Rule 72"). Instead, Goodyear appealed directly to the Fourth Circuit, and asked the Magistrate Judge to stay the April 30 Order pending appeal. By Order entered on May 29, 2003, the Magistrate Judge granted the stay, reasoning that the Malek Homeowners would not suffer substantial harm because the stay would be brief. (Pet. App. 4a-5a). The Magistrate Judge predicted that because a party may not appeal directly to the Court of Appeals from a magistrate judge's nondispositive pretrial order, Goodyear's appeal would be summarily dismissed.

The Magistrate Judge was right. The Fourth Circuit dismissed Goodyear's appeal by Order dated August 6, 2003, and held that Goodyear waived its right to appeal the nondispositive pretrial Order by not first filing its objections with the district court. (Pet. App. 2a-3a). The Fourth Circuit quoted Federal Rule 72(a): "[A] party may not thereafter assign as error a defect in the magistrate judge's order to which objection was not timely made." (Pet. App. 2a). Goodyear first raised its jurisdictional challenges to the Magistrate Judge's authority in the Fourth Circuit. The Fourth Circuit again rejected the arguments in denying Goodyear's Motion for Rehearing or Rehearing En Banc; wherein no member of the court requested a poll on the petition for rehearing en banc. (Pet. App. 1a). Goodyear now raises its arguments before this Court.

After the Fourth Circuit dismissed the case, the Malek Homeowners moved to lift the stay placed on the subpoenaed documents. Goodyear opposed the stay with the same jurisdictional arguments it sets forth here. The Magistrate Judge rejected those arguments and lifted the stay by Order dated November 21, 2003. (App. A-1). This time, Goodyear filed its objections to the November 21 Order in the District Court pursuant to Federal Rule 72. Chief Judge Hilton vacated the hearing, and the parties are currently waiting for an Order.

In sum, Goodyear has lost at every turn with its "lack of jurisdiction" argument. The arguments have been rejected by the Magistrate Judge, and the entire Fourth Circuit. But Goodyear still asks this Court to decide in its favor and against local rules across the country by ruling that magistrate judges cannot perform the duties prescribed in the United States Code after the grant of authority by local rule.

ARGUMENT

Goodyear's entire appeal is controlled by Eastern District of Virginia Local Rule 72, which Goodyear failed to cite in its Petition. Local Rule 72 contains the grant of jurisdiction that Goodyear claims is missing here. Other district courts across the country have enacted similar local rules pursuant to the Federal Magistrates Act, and such rules are vital to the efficient functioning and effective case management of the district courts.

I. THE FOURTH CIRCUIT'S RULING IS NOT IN CONFLICT WITH ITS OTHER DECISIONS OR DECISIONS FROM OTHER CIRCUITS.

Goodyear asserts that the Fourth Circuit's decision is in direct conflict with one other Fourth Circuit decision and a Ninth Circuit decision because the Magistrate Judge had no jurisdiction to enter the discovery order at issue. Goodyear alleges that based on these other decisions, the Fourth Circuit should have held that the Magistrate Judge never had

jurisdiction, that the April 30 Order was a dispositive Order, and therefore, the proper recourse was to use its discretion and deem the appeal filed in the Fourth Circuit as filed in the District Court. *See* Pet. at 3. Goodyear thereby attempts to avoid the effect of its failure to file written objections in the district court pursuant to Federal Rule 72 by now claiming that the Magistrate Judge lacked jurisdiction to issue the April 30 Order.

Consistent with its previous decisions, and decisions from other courts, the Fourth Circuit recognized that Eastern District of Virginia Local Rule 72 conferred jurisdiction on the Magistrate Judge. Therefore, it rejected Goodyear's jurisdictional arguments and refused to allow Goodyear to avoid its mistake of not filing written objections to the Magistrate Judge's April 30 Order pursuant to Federal Rule 72.

Because Goodyear is asking this Court to hold that the Magistrate Judge did not have the authority to enter an Order on a nondispositive pretrial matter, even though Local Rule 72 expressly confers jurisdiction pursuant to 28 U.S.C. § 636, Goodyear is really asking this Court to hold that Local Rule 72 is an invalid grant of authority. Courts across the nation have enacted similar local rules that confer jurisdiction upon magistrate judges to decide pretrial matters, like the discovery issue here, pursuant to 28 U.S.C. § 636 and Federal Rule of Civil Procedure 83(a). Because Goodyear fails to acknowledge this local rule practice, and fails to make any showing that such local rules are invalid under any theory, the Petition should be denied.

A. Local Rule 72 Conferred Jurisdiction on the Magistrate Judge.

Goodyear concedes that under 28 U.S.C. § 636, magistrate judges may rule on nondispositive matters without consent if the magistrate is "designate[d]" to hear the matter. 28 U.S.C. § 636(b)(1)(A). Goodyear errs, however, in

asserting that a specific district judge had to designate a particular magistrate judge to hear the discovery dispute at issue.

Federal Rule of Civil Procedure 83(a) and 28 U.S.C. § 636(b)(4) gives district courts the power to enact local rules pursuant to which magistrate judges shall discharge their duties. Designations of magistrates under section 636 can be effectuated in either of two ways: by a specific order of reference in a particular case or generally by court-wide local rules or standing orders. *United States v. Auberg*, 2001 WL 987802, *2 (S.D. Ind. July 9, 2001). Local Rule 72 of the Eastern District of Virginia constitutes just such a general designation. The rule authorizes and designates magistrate judges in the district to hear matters like the dispute below:

> Magistrate judges of this District serve as judicial officers of the Court and are ***authorized and specially designated*** to perform all duties authorized or allowed to be performed by United States magistrate judges by the United States Code and any rule governing proceedings in this Court.

Local Rule 72 (emphasis added). This general designation conferred jurisdiction on the Magistrate Judge here, and therefore, he had jurisdiction to enter his April 30 Order.

B. Goodyear's Position Invites Chaos and Confusion in Courts Across the Country.

Other district courts, like the Eastern District of Virginia, have enacted local rules specifically and generally conferring jurisdiction on magistrate judges to hear pretrial matters, such as discovery issues, as permitted by 28 U.S.C. § 636(b)(1)(A). In fact, automatic referral of nondispositive motions to magistrates by local rule or standing order is common practice in federal district courts. *See In re*

Charlotte Observer, 882 F.2d 850, 851 (4th Cir. 1989) (recognizing standing order authorizing magistrate to hear and determine nondispositive discovery motions); *Wingerter v. Chester Quarry Co.*, 185 F.3d 657, 660-61 (7th Cir. 1998) (recognizing designation of magistrate judge to hear pre-trial matters occurs automatically by operation of lower court's local rule); *Strawbridge v. Sugar Mountain Resort, Inc.*, 243 F. Supp. 2d 472, 474-75 (W.D.N.C. 2003) (recognizing standing orders of designation to magistrate judges).

Moreover, this Court has upheld the automatic referral to magistrate judges for a report and recommendation in social security benefit cases based in part on Congress' recognition of the "avalanche of additional work" for the district courts. *Mathews v. Weber*, 423 U.S. 261, 268-69, 273 (1976). Here, the Magistrate Judge was referred a mundane discovery issue, which is governed by a clearly erroneous standard of review in the district court if a party files objections pursuant to Federal Rule 72. *See Bhan v. NME Hosps., Inc.*, 929 F.2d 1404, 1414-15 (9th Cir. 1991), *cert denied*, 502 U.S. 994 (1991) (holding the delegation to a magistrate judge of the powers to decide a routine discovery matter was not an unconstitutional delegation of authority because of the clearly erroneous standard of review).

These local rules providing for automatic referral are well-established and efficiently govern pretrial procedures in the already overburdened United States district courts. *See, e.g.*, the following Local Rules authorizing and designating magistrate judges to perform the duties prescribed in the United States Code: Eastern District of Oklahoma Local Rule 72.1; Northern District of Ohio Local Rule 72.2; Eastern District of North Carolina Local Rule 72.2; Northern District of Indiana Local Rule 72.1; Middle District of Alabama Local Rule 72.2; Southern District of California Local Rule 72.2; Western District of Texas Local Rule 72; Southern District of Illinois Local Rule 72.1 (App. B-1 – B-25). Invalidating such local rules would unnecessarily burden courts across the country with all of the duties now handled effectively and

efficiently by magistrate judges. If the Court were to grant the relief Goodyear is seeking here, the Court's decision would be just the beginning of a wholesale alteration of the Federal Magistrates Act and the congressionally-granted authority of the district courts to manage their dockets. Goodyear has made no showing that such a wholesale alteration is warranted. *See Gomez v. United States*, 490 U.S. 858, 869-70 (1989) (recognizing that the magistrate system plays an integral role in the Federal Judicial System).

Due to the practice across the country of assigning cases to magistrate judges pursuant to local rules, the conflict Goodyear alleges between the Fourth and the Ninth Circuits is non-existent. In *Reynaga v. Cammisa*, 971 F.2d 414 (9th Cir. 1992), the court recognized that jurisdiction can be conferred on magistrate judges by specific ***or general*** orders. *See id.* at 415 n.1 (magistrate judge did not have jurisdiction because no order, "specific or general," authorizing magistrate to exercise jurisdiction existed). In any event, the facts of *Reynaga* are inapposite. The magistrate judge in *Reynaga* exceeded his statutory authority under 28 U.S.C. § 636 by entering an order effectively denying a request for an injunction. 971 F.2d at 416-17.

In its Petition, Goodyear fails to acknowledge the Eastern District of Virginia Local Rule 72 and the widespread practice of conferring jurisdiction upon magistrate judges by local rule. Goodyear also fails to offer any support why such rules are invalid. As such, the Petition should be denied; Goodyear should not be allowed to avoid its procedural mistake in failing to follow Federal Rule 72 at the expense of the Federal Magistrates Act, Local Rules of Procedure, and the authority of the district courts to manage their dockets.

C. The April 30 Order was Nondispositive, and Goodyear Failed to File Written Objections in the District Court.

Goodyear's contention that the April 30 Order was a dispositive Order is easily dismissed. The April 30 Order was nondispositive because it resolved a discovery issue. *Thomas E. Hoar, Inc. v. Sara Lee Corp.*, 900 F.2d 522, 525 (2d Cir. 1990) ("matters concerning discovery generally are considered 'nondispositive' of the litigation"). Goodyear responds that the Order was dispositive of all of the issues in this case. *See* Pet. at 11. But this is not an independent "case." It is a proceeding ancillary to an action pending in the United States District Court for the District of Colorado and it must be examined in the context of the main action. *See MDK, Inc. v. Mike's Train House, Inc.*, 27 F.3d 116, 121 (4th Cir. 1994), *cert denied*, 513 U.S. 1000 (1994). The Magistrate Judge's April 30 Order addressed only a discovery issue and did not resolve any substantive claim for relief in the Colorado action. As such, the April 30 Order is nondispositive. *See id.*

Indeed, the cases Goodyear cites actually support Malek's position. In *Am. Stock Exch. v. Mopex, Inc.*, 215 F.R.D. 87, 92 (S.D.N.Y. 2002), the court held that "[a] ruling is 'dispositive' if it resolves substantive claims for relief rather than mere issues in the litigation." *Id.* Here, the Magistrate Judge resolved no substantive claims for relief; he merely resolved a single discovery issue. Moreover, Goodyear relies on *NLRB v. Frazier*, 966 F.2d 812 (3d Cir. 1992), a case in which the defendant actually followed Federal Rule 72, to excuse Goodyear's failure to follow the same rule.

Goodyear also alleges a conflict between the unpublished decision here and another unpublished Fourth Circuit case. *Dixon v. Francis*, 2001 U.S. App. LEXIS 2774 (4th Cir. 2001), is inapposite. In *Dixon*, the magistrate judge entered a *dispositive* order. Here, the Magistrate Judge was specifically designated to exercise his statutory authority by

Local Rule 72 and 28 U.S.C. § 636, and he acted within that authority when he issued his nondispositive April 30 discovery order. Because the Magistrate Judge's April 30 Order was a nondispositive order, Goodyear had to file written objections to the District Court within 10 days. Fed.R.Civ.P. 72(a). By failing to file written objections, Goodyear waived its right to appeal. *See Thomas v. Arn*, 474 U.S. 140, 151-52 (1985) (holding appellate court could properly exercise its supervisory power to establish a rule that the failure of appellant to file objections to a magistrate judge's report waived the right to appellate review). *See also Wells v. Shriners Hosp.*, 109 F.3d 198, 201 (4th Cir. 1997).

Goodyear asserts that it filed a notice of appeal to the Fourth Circuit in the district court and that should be sufficient to meet its Federal Rule 72 obligation because it did not know where to file its objections. *See* Pet. at 13. But Goodyear filed its ancillary case in the Eastern District of Virginia, so surely, it could have filed its objections to the Magistrate Judge's Order in the same court. Moreover, this argument is completely undermined by Goodyear's actual filing of objections to the Magistrate Judge's November 21 Order lifting the stay. This latter filing is the best evidence that Goodyear could have filed objections in the district court to the Magistrate Judge's earlier April 30 Order, and the objections would have been assigned to a district judge. In other words, the fact that Goodyear had its appeal of the November 21 Order heard by a district judge demonstrates that it simply erred when it appealed the April 30 Order directly to the Fourth Circuit.

Goodyear asserts that a district court clerk is somehow responsible for Goodyear's noncompliance with Federal Rule 72. *See* Pet. at 13, 15. But it is not the clerk's duty to advise counsel of the local rules, or the reasons behind its case assignments. Attorneys themselves have a duty to investigate the local rules. *See E.I. DuPont de Nemours & Co. v. United States*, 15 F. Supp. 2d 859, 861-862 (Ct. Int'l Trade 1998) ("reliance on legal advice of clerk's office . . . does not justify

the untimely filing of notice of appeal because the Federal Rules and case law interpreting the rules are clear").

II. GOODYEAR'S INSERTION OF ITS ARGUMENT ON THE MERITS OF THE APRIL 30 ORDER DOES NOT ALTER THE PROCEDURAL NATURE OF THIS CASE, CORRECTLY DECIDED BY THE FOURTH CIRCUIT.

Goodyear's argument that this appeal is cert-worthy is based partially on its unhappiness with the underlying April 30 Order. *See* Pet. at 18-21. In a clever feint, Goodyear seeks to argue the privilege issues involved in the April 30 Order to avoid facing its procedural error. But the Fourth Circuit did not address any of those issues and none of them is presented here. Rather, the Fourth Circuit held only that Goodyear's failure to file its written objections to the April 30 Order pursuant to Federal Rule 72 precluded appellate jurisdiction. Therefore, these arguments are irrelevant in determining the jurisdictional issues involved in this appeal.

Moreover, Goodyear erroneously contends that it will forever lose its right to appeal from the April 30 Order if the Petition is denied. In fact, if any of the documents at issue are used at trial in the Colorado litigation, and if an adverse judgment is entered against Goodyear, Goodyear will be entitled to raise on appeal its objections to any use of such documents. *See Boughton v. Cotter Corp.*, 10 F.3d 746, 749 (10th Cir. 1993) (if privileged documents are wrongly produced, any adverse judgment can be reversed, and the parties forbidden use of the documents on retrial).

Additionally, Goodyear fails to recognize that it is not entitled to an appeal in the Fourth Circuit from the April 30 Order. Even if Goodyear had followed Federal Rule 72, the April 30 Order is not a final, appealable order, and the Fourth Circuit does not invoke the collateral order doctrine to review appeals from discovery orders, even those involving claims of privilege. *See MDK*, 27 F.3d at 119-21 & n.2; *Simmons v.*

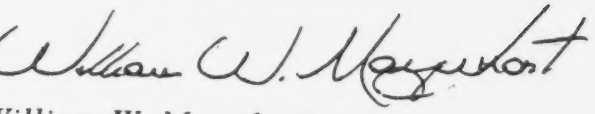
City of Racine, 37 F.3d 325, 327 (7th Cir. 1994) (discovery orders issued over an objection based on privilege are generally not appealable); *Boughton*, 10 F.3d at 749-50 (stating that in virtually every case, other circuits have held that orders compelling disclosure of information claimed to be subject to the attorney-client privilege are not reviewable as collateral orders) (citing cases); *A-Mark Auction Galleries, Inc. v. Am. Numismatic Assoc.*, 233 F.3d 895, 897-99 (5th Cir. 2000) (relying on *MDK*, court held that a discovery order issued by a Texas federal district court was not a final order under 28 U.S.C. § 1291 because it was ancillary to the main case pending in Colorado).

Lastly, Goodyear states that "the parties agreed to have Goodyear's Motion to Quash in Malek listed for hearing on March 21, 2003," which resulted in the April 30 Order. *See* Pet. at 15. Goodyear never raised its jurisdictional challenges at that time. Only after losing on the merits pursuant to the April 30 Order did Goodyear raise its jurisdictional challenges in response to Malek's motion to dismiss in the Fourth Circuit. Because (1) Goodyear's jurisdictional challenges are a thinly-veiled effort to avoid its procedural mistake, (2) Goodyear retains a right to raise its challenges to the use of any of the subpoenaed documents in an appeal from an adverse judgment in the main litigation in the District Court of Colorado, and (3) ultimately Goodyear has no right to appeal from the April 30 Order in the Fourth Circuit, the issues raised in the Petition are procedural only and do not warrant certiorari.

CONCLUSION

The Petition should be denied.

Respectfully submitted,



William W. Maywhort
Counsel of Record
HOLLAND & HART LLP
Suite 400
8390 E. Crescent Parkway
Greenwood Village, CO 80111

Stephen G. Masciocchi, P.C.
Kristin R. Baker
HOLLAND & HART LLP
555 Seventeenth Street,
Suite 3200
Post Office Box 8749
Denver, CO 80201-8749

Attorneys for Respondent
Frederick V. Malek

APPENDIX

A-1

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

THE GOODYEAR TIRE & RUBBER CO.,)

Plaintiff,)

v. CIVIL ACTION NO. 03-MC-8
)

FREDERIC V. MALEK,)
)

Defendant.)

ORDER

For the reasons stated from the bench, and in accord with specific rulings thereto, it is

ORDERED,

Defendant's Motion to Lift Stay is GRANTED. This Order will be STAYED for a period of twenty-one (21) days.

Entered this 21st day of November, 2003.

/s/ Barry R. Poretz
Barry R. Poretz
United States Magistrate Judge

Alexandria, Virginia

WEST'S OKLAHOMA COURT RULES AND PROCEDURE

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA LOCAL CIVIL RULES OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

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Current with amendments received through 11/1/2002

LOCAL RULE 72.1 MAGISTRATE JUDGES

A. Authorization and Duties. All Magistrate Judges duly appointed and acting as such in this District are designated and authorized to perform the duties prescribed by 28 U.S.C. §§ 636(a)(1), (2), and (3); (b)(1)(A), (B), and (C); (b)(2); and (b)(3).

B. Civil Cases--Non-dispositive Pretrial Matters. Pursuant to 28 U.S.C. § 636(b)(1)(A), a District Judge may designate a Magistrate Judge to hear and determine any pretrial matter in any pending civil action, except for the following motions:

1. For injunctive relief,

2. For judgment on the pleadings;

3. For summary judgment;

4. To dismiss; and

5. To permit maintenance of class action.

The Magistrate Judge shall announce in open court, or file his or her report and recommendations with the Court Clerk. Any party objecting to the Magistrate Judge's oral findings or report and recommendation may file objections within ten (10) days after the oral findings are announced or

report and recommendation is served. Objections shall be accompanied by a brief which sets forth with particularity the grounds for the objection. Any objections not so made shall be deemed waived, and the Court will enter such order as it deems appropriate.

C. Civil Cases--Dispositive Matters. Pursuant to 28 U.S.C. § 636(b)(1)(B), a District Judge may designate a Magistrate Judge to conduct hearings, including evidentiary hearings, and to submit proposed findings of fact and recommendations for the disposition of any of the motions excepted from Rule 72.1(B). The Magistrate Judge shall file his proposed findings and recommendations with the Court, mailing copies thereof to all parties who shall have ten (10) days after service thereof to serve and file specific written objections thereto. If no such objections are filed, the Magistrate Judge's findings and recommendations may be accepted by the District Judge and appropriate orders entered without further notice.

D. Service as Special Master. Pursuant to 28 U.S.C. § 636(b)(2), a District Judge may designate a Magistrate Judge to serve as a Special Master in any civil case, upon consent of the parties. The Magistrate Judge shall then proceed according to Rule 53, Federal Rules of Civil Procedure. In the absence of the consent of the parties, the appointment of a Magistrate Judge as a Special Master may be made only upon a showing of the exceptional conditions required by Rule 53(b), Federal Rules of Civil Procedure.

[Effective October 1, 1996.]

U.S. Dist. Ct. Rules E.D.Okl., EDOK LR 72.1-Civil

OK R USDCTED EDOK LR 72.1-Civil

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WEST'S OHIO RULES OF COURT

LOCAL RULES FOR THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO

LOCAL CIVIL RULES
CHAPTER IX. SPECIAL PROCEEDINGS

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Current with amendments received through 1/1/2003

RULE 72.2 ASSIGNMENT AND REFERRAL OF MATTERS TO MAGISTRATE JUDGES

(a) General. The method for assignment of duties to a Magistrate Judge and for the allocation of duties among the several Magistrate Judges of this Court shall be made in accordance with orders of the Court or by special designation of a District Judge.

(b) Automatic Reference. The Clerk shall refer all cases in the following categories to a Magistrate Judge for a Report and Recommendation as provided in Local Rule 72.1(e):

(1) Petitions for review of administrative decisions (including Social Security, Black Lung and Civil Service);

(2) Pro se petitions for habeas corpus filed under 28 U.S.C. § 2254, provided such petition has first been reviewed by the Court pursuant to 28 U.S.C. § 1915(d) and Rule 4 of the Rules Governing § 2254 Cases and a decision has been made to require a response to the petition.

(3) Administrative Cases under Local Rule 16.2(a).

(See LCrR 5.2 and 35.1)

[Effective January 1, 1992; amended effective June 9, 1992; amended and renumbered April 7, 1997.]

U.S. Dist. Ct. Rules N.D.Ohio, LR 72.2

OH R USDCTND LR 72.2

END OF DOCUMENT

WEST'S NORTH CAROLINA RULES OF COURT

LOCAL RULES OF PRACTICE AND PROCEDURE OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA

I. CIVIL RULES

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Current with amendments received through 9/1/2003.

RULE 72.2 MAGISTRATE JUDGES: ASSIGNMENTS OF MATTERS

(a) Civil Cases. Upon filing, all civil cases shall be assigned by the clerk to a magistrate judge for the conduct of such discovery and pre-trial conferences as are necessary and for the hearing and determination of all pre-trial procedural and discovery motions, in accordance with Local Rule 72.4(b). Where designated by a judge, the magistrate judge may conduct additional pre-trial conferences and hear motions and perform the duties set forth in Local Rules 72.4(c), 72.4(d) and 72.4(e). Where the parties consent to trial and disposition of a case by a certified magistrate judge under Local Rule 73.1, such case shall, with the approval of the judge to whom it was assigned at the time of filing, be reassigned to a certified magistrate judge for the conduct of all further proceedings and the entry of judgment.

(b) General. Nothing in these local rules shall preclude a judge from reserving any proceeding for conduct by a judge, rather than a magistrate judge. The judge, moreover, may by order modify the method of assigning proceedings to a magistrate judge as changing conditions may warrant.

[Effective January 1, 2003.]

U.S. Dist. Ct. Rules E.D.N.C., Civil Local Rule 72.2

NC R USDCTED CIV Local Rule 72.2

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WEST'S INDIANA RULES OF COURT

LOCAL RULES OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA

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Current with amendments received through 10/1/2002

L.R. 72.1 AUTHORITY OF UNITED STATES MAGISTRATE JUDGES

Unless otherwise provided in these Rules, the term "United States Magistrate Judge" shall include full-time magistrate judges, part-time magistrate judges and magistrate judges recalled pursuant to 28 U.S.C. § 636(h).

(a) Duties under 28 U.S.C. §§ 636(a)(1) and (2). Each United States magistrate judge of this court is authorized to perform the duties prescribed by 28 U.S.C. §§ 636(a)(1) and (2), and may exercise all the powers and duties conferred upon United States magistrate judges by statutes of the United States and the Federal Rules of Criminal Procedure which include, but are not limited to, the following:

(1) Acceptance of criminal complaints and issuance of arrest warrants or summonses. (Fed.R.Crim.P. 4.)

(2) Issuance of search warrants, including warrants based upon oral or telephonic testimony. (Fed.R.Crim.P. 41.)

(3) Conduct of initial appearance proceedings for defendants, informing them of the charges against them and of their rights, and imposing conditions of release. (Fed.R.Crim.P. 5.)

(4) Conduct of initial proceedings upon the appearance of an individual accused of an act of juvenile delinquency. (18 U.S.C. § 5034.)

(5) Appointment of attorneys for defendants who are unable to afford or obtain counsel and approval of attorneys' expense vouchers in appropriate cases. (18 U.S.C. § 3006A.)

(6) Appointment of counsel for persons subject to revocation of probation, parole or supervised release (in which case preference shall be given to previously appointed counsel if such attorney is still available and willing to serve); persons in custody as a material witness; persons seeking relief under 28 U.S.C. §§ 2241, 2254, or 2255 or 18 U.S.C. § 4245; or for any person for whom the Sixth Amendment to the Constitution requires the appointment of counsel or for whom, in a case in which the person faces loss of liberty, any federal law requires the appointment of counsel.

(7) Appointment of interpreters in cases initiated by the United States. (28 U.S.C. §§ 1827 and 1828.)

(8) Direction of the payment of basic transportation and subsistence expenses for defendants financially unable to bear the costs of travel to required court appearances. (18 U.S.C. § 4285.)

(9) Setting of bail for material witnesses. (18 U.S.C. § 3149.)

(10) Conduct of preliminary examinations. (Fed.R.Crim.P. 5.1 and 18 U.S.C. § 3060.)

(11) Conduct of initial proceedings for defendants charged with criminal offenses in other districts. Fed.R.Crim.P. 40.)

(12) Conduct of detention hearings. (18 U.S.C. § 3142(f).)

(13) Conduct of preliminary hearings for the purpose of determining whether there is probable cause to hold a probationer for a revocation hearing. (Fed.R.Crim.P. 32.1(a)(1).)

(14) Administration of oaths and taking of bail, acknowledgements, affidavits and depositions. (28 U.S.C. § 636(a)(2).)

(15) Conduct of extradition proceedings. (18 U.S.C. § 3184.)

(16) Holding of individuals for security of the peace and for good behavior. (50 U.S.C. § 23.)

(17) Discharge of indigent prisoners or persons imprisoned for debt under process of execution issued by a federal court. (18 U.S.C. § 3569 and 28 U.S.C. § 2007.)

(18) Issuance of attachments or orders to enforce obedience of Internal Revenue Service summonses to produce records or give testimony. (26 U.S.C. § 7604(b).)

(19) Issuance of administrative inspection warrants. (In the Matter of Establishment Inspection of Gilbert and Bennett Manufacturing Co., 589 F.2d 1335, 1340-41 [7th Cir. 1979].)

(20) Institution of proceedings against persons violating certain civil rights statutes. (42 U.S.C. § 1987.)

(21) Settling or certification of the non-payment of seamen's wages. (46 U.S.C. § 603.)

(22) Enforcement of awards of foreign consuls in differences between captains and crews of vessels of the consul's nation. (22 U.S.C. § 258(a).)

(23) Conduct of proceedings under the Federal Debt Collection Act to the extent not inconsistent with the Constitution and laws of the United States. (28 U.S.C. § 3008.)

(b) Disposition of Misdemeanor Cases--18 U.S.C. § 3401. A magistrate judge may:

(1) Conduct the trial of persons accused of, and sentence persons convicted of, misdemeanors, including petty offenses committed within this district. Pursuant to 18 U.S.C. § 3401(a), each magistrate judge is hereby specially designated to exercise the jurisdiction conferred by such section with the written consent of the defendant as provided in 18 U.S.C. § 3401(b); such trial shall be by jury in the case of all Class A misdemeanors unless waived in writing by the defendant;

(2) Direct the probation service of the court to conduct a pre-sentence investigation in any misdemeanor case. Any appeal from the judgment of the magistrate judge shall be as provided in 18 U.S.C. § 3402.

(c) Determination of Non-Dispositive Pre-trial Matters--28 U.S.C. § 636(b)(1)(A). A magistrate judge may hear and determine any procedural or discovery motion or other motion or pre-trial matter in a civil or criminal case, other than the motions which are specified in Local Rule 72.1(d) of these rules, in accordance with Fed. R. Civ. P. 72(a).

(d) Recommendation Regarding Case-Dispositive Motions--28 U.S.C. § 636(b)(1)(B).

(1) A magistrate judge may submit to a district judge of the court a report containing proposed findings of fact and recommendations for disposition by the judge of the following pre-trial motions in civil and criminal cases in accordance with Fed.R.Civ.P. 72(b):

(A) Motions for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;

(B) Motions for judgment on the pleadings;

(C) Motions for summary judgment;

(D) Motions to dismiss or permit the maintenance of a class action;

(E) Motions under Fed. R. Civ. P. 72(a);

(F) Motions to involuntarily dismiss an action;

(G) Motions for review of default judgments;

(H) Motions to dismiss or quash an indictment or information made by a defendant;

(I) Motions to suppress evidence in a criminal case;

(J) Applications for post-trial relief made by individuals convicted of criminal offenses;

(K) Petitions for judicial review of administrative decisions regarding the granting of benefits to claimants under the Social Security Act, and related statutes;

(L) Petitions for judicial review of an administrative award or denial of licenses or similar privileges.

(2) Any objections to the magistrate judge's report and recommendation shall be filed with the clerk in accordance with 28 U.S.C. § 636(b)(1), and failure to file timely objections within the ten (10) day period set forth therein shall constitute a waiver of subsequent review absent a showing of good cause for such failure.

(3) A magistrate judge may determine any preliminary matter and conduct any necessary evidentiary hearing or other proceeding arising in the exercise of the authority conferred by this subsection.

(e) Prisoner Cases under 28 U.S.C. § 2254 and 2255. A magistrate judge may perform any or all the duties imposed upon a judge by the rules governing proceedings in the United States District Court under §§ 2254 and 2255 of

Title 28, United States Code. In so doing, a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a district judge a report containing proposed findings of fact and recommendations for disposition of the petition by the judge. Any order disposing of the petition may only be made by a judge. In the event no hearing is held by the magistrate judge, the magistrate judge may, pursuant to 28 U.S.C. § 636(b)(3) acting as legal advisor to the district judge, submit to the judge a proposed entry ruling on the motion. If the district judge so directs, copies of such proposed ruling need not be served on the parties of counsel.

(f) Prisoner Cases under 42 U.S.C. § 1983. A magistrate judge may:

(1) Review prisoner suits for deprivation of civil rights arising out of conditions of confinement under § 1983 of Title 42, United States Code and issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a judge a report containing proposed findings of fact and recommendations for the disposition of the suits by the district judge. Any order disposing of prisoner suits challenging the conditions of their confinement may only be made by a district judge.

(2) Take on-site depositions, gather evidence, conduct pretrial conferences, or serve as a mediator at a holding facility in connection with civil rights suits filed by prisoners contesting conditions of confinement under § 1983 of Title 42, United States Code.

(3) Conduct periodic reviews of proceedings to ensure compliance with previous orders of the court regarding conditions of confinement.

(4) Review prisoner correspondence.

(g) Special Master References--28 U.S.C. § 636(b)(2). A magistrate judge may be designated by a

district judge to serve as a special master in appropriate civil cases in accordance with 28 U.S.C. § 636(b)(2) and Fed. R. Civ. P. 53. Upon the consent of the parties, a magistrate judge may be designated by a judge to serve as a special master in any civil case, notwithstanding the limitations of Fed. R. Civ. P. 53(b).

(h) Conduct of Trials and Disposition of Civil Cases Upon Consent of the Parties--28 U.S.C. § 636(c). Upon the consent of the parties, a full-time magistrate judge is hereby authorized and specially designated to conduct any or all proceedings in any civil case which is filed in this court, including the conduct of a jury or non-jury trial, and may order the entry of a final judgment, in accordance with 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73. Pursuant to 28 U.S.C. § 636(c)(1), upon the consent of the parties, pursuant to their specific written request, and upon certification by the chief judge of this court that a full-time magistrate judge is not reasonably available in accordance with guidelines established by the judicial council of the circuit, any part-time magistrate judge who does not serve as a full-time judicial officer but who meets the bar requirements set forth in 28 U.S.C. § 631(b)(1), is hereby authorized and specifically designated by this court to conduct any or all proceedings in a civil case, whether jury or non jury. In the course of conducting such proceedings, upon consent of the parties, a magistrate judge may hear and determine any and all pre-trial and post-trial motions which are filed by the parties, including case-dispositive motions.

(i) Additional Duties--28 U.S.C. § 636(b)(3). A magistrate judge of this court is also authorized to:

(1) Exercise general supervision of civil and criminal calendars, including the handling of calendar and status calls, and motions to expedite or postpone the trial of cases for the district judges;

(2) Conduct preliminary and final pre-trial conferences, status calls, settlement conferences, and related pre-trial proceedings in civil cases, and prepare a pre-trial order following the conclusion of the final pre-trial conference;

(3) Conduct pre-trial conferences, omnibus hearings, and related pre-trial proceedings in criminal cases;

(4) Conduct arraignments, accept not guilty pleas, and order pre-sentence reports on defendants who signify the desire to plead guilty. (A magistrate judge, however, may not accept pleas of guilty or nolo contendere in cases outside the jurisdiction specified in 18 U.S.C. § 3401);

(5) Receive grand jury returns in accordance with Fed. R. Crim. P. 6(f);

(6) Accept waivers of indictment, pursuant to Fed. R. Crim. P. 7(b);

(7) Issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses or evidence needed for court proceedings;

(8) Hear and determine motions by the government to dismiss an indictment, information, or complaint without prejudice to further proceedings;

(9) Conduct voir dire and select petit juries in civil cases for the court;

(10) Accept petit jury verdicts in civil cases in the absence or unavailability of a judge;

(11) Order the exoneration or forfeiture of bonds;

(12) Conduct proceedings for the collection of civil penalties of not more than $200.00 assessed under the Federal

Boat Safety Act of 1971 in accordance with 46 U.S.C. §§ 4311(d), 12309;

(13) Conduct examinations of judgment debtors in accordance with Fed. R. Civ. P. 69;

(14) Serve as eminent domain commissioner as provided in Fed. R. Civ. P. 71A;

(15) Perform the functions specified in 18 U.S.C. §§ 4107, 4108 and 4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein;

(16) Serve as a member of this District's Speedy Trial Act Planning Group, including service as the reporter (18 U.S.C. § 1368);

(17) Supervise proceedings on requests for letters rogatory in civil and criminal cases upon special designation by the district court as required under 28 U.S.C. § 1782(a);

(18) Hear and determine applications for admission to practice before this District Court;

(19) Preside over naturalization ceremonies and administer the oath of renunciation and allegiance required by 8 U.S.C § 1448(a). Following these ceremonies, a magistrate judge shall submit to a judge of this court a report containing the names of applicants who took the oaths administered. (A magistrate judge may not conduct final hearings or preliminary examinations of petitioners or witnesses, as those functions are expressly vested in naturalization examiners or in judges by 8 U.S.C. §§ 1447(a) and (b)); and

(20) Conduct proceedings supplemental; and

(21) Perform any additional duty as is not contrary to the law of this District and Circuit nor inconsistent with the Constitution and laws of the United States.

(j) Assignment of Matters to Magistrate Judge. The cases in which each magistrate judge is authorized to perform the duties enumerated in these rules are those cases assigned to the magistrate judge by rule or order of this court, or by order or special designation of any district judge of this court.

[Adopted effective January 1, 1994; amended effective October 2, 2000; January 1, 2002.]

U.S. Dist. Ct. Rules N.D.Ind., L.R. 72.1

IN R USDCTND L.R. 72.1

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WEST'S ALABAMA RULES OF COURT

LOCAL RULES FOR THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA

PART I. CIVIL RULES AND GENERAL PROVISIONS
IX. SPECIAL PROCEEDINGS

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Current with amendments received through 5-1-2003

LOCAL RULE 72.2 ASSIGNMENT OF DUTIES TO MAGISTRATE JUDGES

The full-time Magistrate Judges of this court are authorized to exercise all powers and perform all duties authorized by 28 U.S.C. § 636(a) and (b), including all duties not inconsistent with the Constitution and laws of the United States.

[Effective January 1, 1998.]

U.S. Dist. Ct. Rules M.D.Ala., LR 72.2

AL R USDCTMD LR 72.2

END OF DOCUMENT

WEST'S CALIFORNIA LOCAL COURT RULES PAMPHLETS AND WEST'S CALIFORNIA RULES OF COURT

LOCAL RULES OF PRACTICE FOR THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

CIVIL LOCAL RULES JURIES

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Current with amendments received through June 1, 2003

CIVIL RULE 72.2 ASSIGNMENT AND DESIGNATION PROCEDURES

a. Order of Designation and Assignment. A matter assigned to the magistrate judges either as a matter of course by the clerk of the United States District Court or by an order of special designation by a district judge of the court under 28 U.S.C. § 636(b) or (c), precisely stating the nature of the matter, shall be assigned to a specific magistrate judge as follows:

b. Civil Matters. The clerk shall assign civil matters by lot as described in Civil Local Rule 40.1. In civil matters where reference to a magistrate judge is dependent upon the consent of the parties, such as trials, the district judge may assign the matter to a particular magistrate judge selected by the parties.

c. Assignment of Cases. [FN*] Upon filing, civil cases shall be assigned by the clerk to a magistrate judge. The magistrate judge shall hear and determine Civil Local Rule 72.1.b pretrial motions.

d. Designated Duties. [FN*] Where designated by a judge the magistrate judge may conduct additional pre-trial

conferences and hear motions and perform the duties set forth in Civil Local Rule 72.1.c.

e. Prisoner Cases. [FN*] Each magistrate judge shall be designated to perform the duties set forth in Civil Local Rule 72.1.d.

f. Case Set Before Magistrate Judge. [FN*] Where the parties consent to trial and disposition of a case by a magistrate judge under Civil Local Rule 72.1.f of these rules, such case shall set before the magistrate judge for the conduct of all further proceedings and the entry of judgment.

g. Notice of Hearing. A magistrate judge assigned a matter shall set the time of hearing, notify all parties and make any further necessary orders consistent with the requirements of the local rules of court for the Southern District.

h. Assignment of Proceedings. [FN*] Nothing in these rules shall preclude the court, or a district judge from reserving any proceedings for conduct by a district judge, rather than a magistrate judge. The court, moreover, may by general order modify the method of assigning proceedings to a magistrate judge as changing conditions may warrant.

Eff. Aug. 18, 1997.

FN* Suggested title added by publisher.

U.S. Dist. Ct. Rules S.D.Cal., CivLR 72.2

CA R USDCTSD CivLR 72.2

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WEST'S TEXAS RULES OF COURT

LOCAL COURT RULES OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS

SECTION I. CIVIL RULES

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Current with amendments received through 2/1/2003

RULE CV-72. MAGISTRATE JUDGES, PRETRIAL MATTERS

The magistrate judges of this Court are authorized to perform all the duties allowed to magistrate judges under the Federal Magistrates Act as amended in 28 United States Code § 636. The magistrate judges of this court are designated to exercise civil jurisdiction under section 636(c)(1) upon consent of the parties. Whenever applicable, the "Local Rules of the Assignment of Duties to United States Magistrate Judges" found at Appendix "C" herein, shall apply to proceedings before the magistrate judges.

[Effective January 1, 1994.]

U.S. Dist. Ct. Rules W.D.Tex., Rule CV-72

TX R USDCTWD Rule CV-72

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WEST'S ILLINOIS COURT RULES AND PROCEDURE--
VOLUMES I, II AND III

LOCAL RULES OF THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS

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Current with amendments received through April 15, 2003

RULE 72.1 AUTHORITY OF UNITED STATES MAGISTRATE JUDGES

(28 U.S.C. § 636, et seq.; 28 U.S.C. §§ 1331, 2241, 2254, 2255; 18 U.S.C. § 3401; 42 U.S.C. § 1983)

(a) Duties Under 28 U.S.C. § 636(a). Each United States Magistrate Judge of this Court is authorized to perform the duties prescribed by 28 U.S.C. § 636(a), and may:

(1) exercise all the powers and duties conferred or imposed upon United States Commissioners by law and the Federal Rules of Criminal Procedure;

(2) administer oaths and affirmations, impose conditions of release under 18 U.S.C. § 3146, and take acknowledgments, affidavits, and depositions; and

(3) conduct extradition proceedings in accordance with 18 U.S.C. § 3184.

(b) Disposition of Misdemeanor Cases--18 U.S.C. § 3401. A Magistrate Judge may, either upon automatic reference pursuant to Local Rule 72.2(a) or upon specific reference by the assigned U.S. District Judge:

(1) try persons accused of, and sentence persons convicted of, misdemeanors committed within this District in accordance with 18 U.S.C. § 3401;

(2) direct the probation service of the Court to conduct a pre-sentence investigation in any misdemeanor case; and

(3) conduct a jury trial in any misdemeanor case where the defendant so requests and is entitled to trial by jury under the Constitution and laws of the United States.

(c) Determination of Non-Dispositive Pre-trial Matters--28 U.S.C. § 636(b)(1)(A). A Magistrate Judge may hear and determine any procedural or discovery motion or other pre-trial matter in a civil or criminal case, other than the motions which are specified in sub-section 72.1(d), infra, of these rules. See also Local Rule 72.2(a)(1).

(d) Recommendations Regarding Case-Dispositive Motions--28 U.S.C. § 636(b)(1)(B).

(1) A Magistrate Judge may submit to a District Judge of the Court a report containing proposed findings of fact and recommendations for disposition by the District Judge of the following pre-trial motions in civil and criminal cases:

(i) motions for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;

(ii) motions for judgment on the pleadings;

(iii) motions for summary judgment;

(iv) motions to dismiss or permit the maintenance of a class action;

(v) motions to dismiss for failure to state a claim upon which relief may be granted;

(vi) motions to involuntarily dismiss an action;

(vii) motions for review of default judgments;

(viii) motions to dismiss or quash an indictment or information made by a defendant; and

(ix) motions to suppress evidence in a criminal case.

(2) A Magistrate Judge may determine any preliminary matters and conduct any necessary evidentiary hearing or other proceedings arising in the exercise of the authority conferred by this sub-section.

(e) Prisoner Cases Under 28 U.S.C. §§ 1331, 2241, 2254 and 2255. A Magistrate Judge may perform any or all of the duties imposed upon a District Judge by the rules governing proceedings in the United States District Courts under § 1331, § 2241, § 2254 and § 2255 of Title 28, United States Code. In so doing, a Magistrate Judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceedings and shall submit to a District Judge a report containing proposed findings of fact and recommendations for disposition of the petition by the Judge. Any order disposing of the petition may only be made by a Judge, unless the parties otherwise consent as provided by 28 U.S.C. § 636(c) and Local Rule 72.1(h).

(f) Prisoner Cases Under 42 U.S.C. § 1983. A Magistrate Judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceedings and shall submit to a District Judge a report containing proposed findings of fact and recommendations for the disposition of petitions filed by prisoners challenging the conditions of their confinement.

(g) Special Master References. A Magistrate Judge may be designated by a District Judge to serve as a special master in appropriate civil cases in accordance with 28 U.S.C. § 636(b)(2) and Rule 53 of the Federal Rules of Civil Procedure. Upon the consent of the parties, a Magistrate Judge may be designated by a District Judge to serve as a

special master in any civil case, notwithstanding the limitations of Rule 53(b) of the Federal Rules of Civil Procedure.

(h) Conduct of Trials and Disposition of Civil Cases Upon Consent of the Parties--28 U.S.C. § 636(c). Upon the consent of the parties, a full-time Magistrate Judge may conduct any or all proceedings in any civil case which is filed in this Court, including the conduct of a jury or non jury trial, and may order the entry of a final judgment, in accordance with 28 U.S.C. § 636(c). In the course of conducting such proceedings upon consent of the parties, a Magistrate Judge may hear and determine any and all pre-trial and post-trial motions which are filed by the parties, including case-dispositive motions.

(i) Other Duties. A Magistrate Judge is also authorized to:

(1) exercise general supervision of civil and criminal calendars and conduct calendar and status calls on behalf of a District Judge;

(2) conduct pre-trial conferences, settlement conferences, omnibus hearings, and related pre-trial proceedings in civil and criminal cases;

(3) conduct arraignments in criminal cases not friable by the Magistrate Judge and take "not guilty" pleas in such cases;

(4) receive grand jury returns in accordance with Rule 6(f) of the Federal Rules of Criminal Procedure;

(5) accept waivers of indictment, pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure;

(6) conduct voir dire and select civil petit juries for the Court;

(7) accept petit jury verdicts in civil cases in the absence of a District Judge;

(8) conduct necessary proceedings leading to the potential revocation of probation;

(9) issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses or evidence needed for court proceedings;

(10) order the exoneration or forfeiture of bonds;

(11) conduct proceedings for the collection of civil penalties of not more than $200 assessed in accordance with 46 U.S.C. § 4311(d) and 46 U.S.C. § 12309(c);

(12) conduct examinations of judgment debtors in accordance with Rule 69 of the Federal Rules of Civil Procedure;

(13) conduct proceedings for initial commitment of narcotic addicts under Title III of the Narcotic Addict Rehabilitation Act; and

(14) perform the functions specified in 18 U.S.C. §§ 4107, 4108, and 4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein;

(15) conduct examination of claims for attorneys' fees and related nontaxable expenses in accordance with Rule 54(d)(2)(D) of the Federal Rules of Civil Procedure.

Eff. March 1, 1999.

U.S. Dist. Ct. Rules S.D.Ill., Rule 72.1

IL R USDCTSD Rule 72.1

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